

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 281**

**Introduced by Senator Maldonado**

February 16, 2005

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An act to amend Section 104650 of, and to add and repeal Section 104651 of, *Section 104651 to*, the Health and Safety Code, relating to nutrition.

LEGISLATIVE COUNSEL'S DIGEST

SB 281, as amended, Maldonado. Nutrition.

Existing law requires the State Department of Health Services to establish and implement, to the extent funds other than state general funds are available, a "5 A Day—For Better Health" program for the purpose of promoting public awareness of the need to increase the consumption of fruits and vegetables as part of a low-fat, high-fiber diet in order to improve health and prevent major chronic diseases, including diet-related cancers. Existing law authorizes the department to contract with qualified organizations for services to implement this program.

~~This bill would provide that contracts entered into under this provision shall not be subject to the requirements of the State Contract Act.~~

~~This bill would establish a 2-year pilot program beginning July 1 of the first year a funding source is established, to make available free fresh and dried fruits and fresh vegetables to pupils in no fewer than 25 eligible elementary and secondary schools throughout the state, with certain requirements. The pilot program would be administered by the department and implementation of the pilot program would be contingent on the availability of funds, other than General Fund moneys. The bill would require a participating school to submit reports, as specified, to the department and other appropriate agencies.~~

~~The bill would also require the department to submit a final report to the Legislature, the Department of Food and Agriculture, and the State Department of Education. These provisions establishing the pilot program would become inoperative on July 1, 2010, and would be repealed as of January 1, 2011.~~

*This bill would delete provisions authorizing the department to contract with qualified organizations for those services, and would require the department to investigate all available funding sources, public and private, for the purposes of the program, including application for public and private grants.*

*The bill would also require the department and the Department of Food and Agriculture to develop a program that encourages schools to provide fruits and vegetables to pupils.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 104650 of the Health and Safety Code  
2 is amended to read:

3 104650. (a) The department shall establish and implement, to  
4 the extent funds are available pursuant to subdivision ~~(d)~~ which  
5 *(c)* that are other than state general funds, a “5 A Day—For  
6 Better Health” program for the purpose of promoting public  
7 awareness of the need to increase the consumption of fruits and  
8 vegetables as part of a low-fat, high-fiber diet in order to improve  
9 health and prevent major chronic diseases, including diet-related  
10 cancers.

11 (b) The department may promote the “5 A Day—For Better  
12 Health” program to the public through channels, including, ~~but~~  
13 ~~not limited to~~, print and electronic media, retail, grocers, schools,  
14 and other government programs. For purposes of this article,  
15 “public” includes, ~~but is not limited to~~, the general adult  
16 population, adults with lower educational attainment, schoolage  
17 children and youth, and high-risk groups determined by the  
18 department.

19 ~~(c) The department may, at its sole discretion, contract with~~  
20 ~~qualified organizations for general or specialized services to~~  
21 ~~implement this article, including personnel, marketing, public~~  
22 ~~relations, research, evaluation, and administration. Contracts~~

1 entered into pursuant to this section shall not be subject to the  
2 requirements of Part 2 (commencing with Section 10100) of  
3 Division 2 of the Public Contract Code.

4 ~~(d) The department is encouraged to investigate all available~~  
5 *(c) The department shall investigate all available* funding  
6 sources, public and private, for the purposes of this article,  
7 including application for public and private grants.

8 SEC. 2. Section 104651 is added to the Health and Safety  
9 Code, to read:

10 104651. (a) (1) The department shall administer a two-year  
11 pilot program beginning July 1 of the first July after a funding  
12 source is established, to make available free fresh and dried fruits  
13 and fresh vegetables to pupils in no fewer than 25 eligible  
14 elementary and secondary schools throughout the state. This pilot  
15 program shall be administered as a part of the Local Incentive  
16 Award Program of the Statewide California Nutrition Network  
17 for Healthy, Active Families and the California "5 A Day--For  
18 Better Health" program.

19 (2) The establishment and implementation of this pilot  
20 program is contingent on the identification of funding sources,  
21 other than General Fund moneys, by the department. The  
22 department is encouraged to investigate funding sources, both  
23 public and private, including, but not limited to, application for  
24 public and private grants.

25 (3) The department may contract with qualified organizations  
26 for services to implement this section pursuant to Section 19130  
27 of the Government Code. Contracts entered into for the pilot  
28 program shall be subject to subdivision (c) of Section 104650.

29 (4) The department, in cooperation with the State Department  
30 of Education and the Department of Food and Agriculture, shall  
31 establish guidelines for the administration and evaluation of the  
32 program, including, but not limited to, selection and eligibility  
33 criteria for intervention and comparison schools, promotion and  
34 distribution methods, and reporting.

35 (5) A prospective participating school shall submit a letter of  
36 intent to the department detailing its eligibility pursuant to  
37 subdivision (b) and the manner in which the school would  
38 comply with subdivision (b).

39 (6) Fruits and vegetables provided pursuant to the pilot  
40 program shall be provided free of charge to pupils, shall not

~~supplant fruits and vegetables provided through existing meal programs, and shall be provided to pupils during the schoolday before or after, but not during regularly scheduled school meal periods. Methods of delivery shall be chosen by the schools and may include, but need not be limited to, classroom delivery and vending machines.~~

~~(b) To be eligible to participate in the pilot program, a school shall meet all of the following requirements:~~

~~(1) Fifty percent of pupils attending the school shall qualify for the federal free and reduced-price meal program.~~

~~(2) Contribute to the program's ability to reflect the diverse population of the state.~~

~~(3) Meet any other requirements established by the department.~~

~~(4) Have an enrollment of at least 250 pupils.~~

~~(5) The school or school district shall have an existing contract with the department as a recipient of an incentive award through the Statewide California Nutrition Network for Healthy, Active Families.~~

~~(6) No more than three schools may be selected in any single county with counties to be selected from no fewer than three regions of the 11 regions of the state, as defined by the "5 A Day--For Better Health" program.~~

~~(7) At least one school, but not more than three schools, may be on an American Indian Reservation, with only one school per reservation.~~

~~(8) At least 12 schools, but not more than 18 schools, shall be elementary schools. For purposes of this paragraph, an elementary school is a school with a combination of students in K-6 grade levels.~~

~~(c) Participating schools and school districts shall do all of the following:~~

~~(1) Widely publicize the availability of the items described in subdivision (a).~~

~~(2) Spend no more than 25 percent of funding provided by this section for administrative services in the first year of participating in this pilot program, and no more than 15 percent in subsequent years.~~

~~(3) Provide instruction to pupils on nutrition as part of its course of study, with particular emphasis on the benefits of~~

1 ~~eating five to nine servings of fruits and vegetables every day.~~

2 ~~This instruction shall incorporate all of the following elements:~~

3 ~~(A) Strategies to increase the likelihood that a pupil will make~~  
4 ~~healthy food choices, including eating at least five to nine~~  
5 ~~servings of fruits and vegetables each day.~~

6 ~~(B) Encouraging pupils to become more physically active.~~

7 ~~(C) Providing community resource information regarding~~  
8 ~~nutrition assistance programs.~~

9 ~~(D) Providing skill building opportunities in cooking and food~~  
10 ~~demonstrations.~~

11 ~~(d) After the funds are allocated, each participating school~~  
12 ~~shall be required to submit to the department, the Department of~~  
13 ~~Food and Agriculture, and the State Department of Education an~~  
14 ~~interim report, and a final report three months following the~~  
15 ~~completion of the pilot program. The reports required by this~~  
16 ~~subdivision shall include, but not be limited to, all of the~~  
17 ~~following information:~~

18 ~~(1) The delivery methods and delivery times of fruits and~~  
19 ~~vegetables.~~

20 ~~(2) The manner in which fruits and vegetables were purchased~~  
21 ~~by the school.~~

22 ~~(3) The vendors from whom the fruits and vegetables were~~  
23 ~~purchased.~~

24 ~~(4) The types and amount of nutrition education and~~  
25 ~~promotion utilized during the pilot program.~~

26 ~~(5) The effects of the pilot program on the sales of other foods~~  
27 ~~and beverages sold at the school.~~

28 ~~(6) Cost considerations for the school.~~

29 ~~(7) Lessons learned through the pilot program.~~

30 ~~(8) Suggestions for future programs.~~

31 ~~(9) Feasibility of continuing the pilot program or other similar~~  
32 ~~programs.~~

33 ~~(10) Changes in the students reported consumption of fruits~~  
34 ~~and vegetables.~~

35 ~~(11) Changes in the students knowledge, skills, and~~  
36 ~~preferences for fruits and vegetables, their self-confidence about~~  
37 ~~selecting fruits and vegetables, and their awareness of specific “5~~  
38 ~~A Day--For Better Health” messages.~~

39 ~~(12) The types and amount of nutrition education and~~  
40 ~~promotion utilized during the pilot program.~~

~~(e) The information required for the reports submitted pursuant to subdivision (d) shall be collected through methods including, but not limited to, all of the following:~~

~~(1) Records of food and vegetable purchases submitted by the school to the state.~~

~~(2) Site visits to participating schools, focus groups, and interviews with school stakeholders.~~

~~(3) A final in-person meeting between participating schools and the state.~~

~~(f) The department shall provide a final report to the Legislature, the Department of Food and Agriculture, and the State Department of Education within six months of the completion of the pilot program that summarizes the information submitted pursuant to subdivision (d), and evaluates the efficacy of the pilot program, evaluates the feasibility of expanding the pilot program, and makes recommendations for future programs to increase fruit and vegetable consumption.~~

~~(g) Based on the outcome of the evaluations conducted pursuant to subdivision (f), the department, the Department of Food and Agriculture, and the State Department of Education shall examine the feasibility, benefits, and costs of expanding the pilot program and implementing it on a broader scale in additional areas of the state.~~

~~(h) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

*104651. (a) (1) The department and the Department of Food and Agriculture shall develop a program that encourages schools to provide fruits and vegetables to pupils to supplement the fruits and vegetables provided through existing meal programs.*

*(2) Fruits and vegetables provided pursuant to this section shall be provided free of charge to a pupil, where appropriate.*

*(3) Fruits and vegetables provided pursuant to this section shall be provided during the schoolday, but not during regularly scheduled meal periods.*

*(b) The department and the Department of Food and Agriculture, in consultation with the State Board of Education,*

- 1 *shall establish guidelines for the administration and evaluation*
- 2 *of the program developed pursuant to this section.*

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